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EX PARTE OR LATE FILED

October 8, 1999

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

BY HAND

Mr. Lawrence Strickling, Chief
Common Carrier Bureau
Federal Communications Commission
Washington, DC 20554

Re: CC Dkt. No. 98-147
Ex Parte Communication

Dear Mr. Strickling:

With the clarifications described below, Network Access Solutions ("NAS") endorses the proposals made by Northpoint and HarvardNet in the letter they submitted today. That letter correctly divides into six categories the costs that an ILEC will incur in providing line sharing to CLECs. The letter also urges the Commission to explain with specificity the policy that an ILEC must follow in deciding what portion of the total costs in each of these categories to allocate to advanced services provided on the same loop as low bandwidth services, and it proposes a cost allocation policy for each cost category that we believe is appropriate. Similarly, the letter urges the Commission to describe with specificity the non-discrimination principal that an ILEC must employ in allocating, between the ILEC's advanced services and the advanced services of CLECs, that portion of costs in each category that are appropriately attributable to advanced services, and we agree with the recommendations it makes to give meaning to this non-discrimination principal. We likewise agree with the letter's request that the Commission mandate that ILECs begin offering line sharing at a price which is *prima facie* consistent with these cost allocation policies by no later than 90 days after release of the FCC's order, with that price being subject to retroactive true up once state PUCs have time to investigate whether the price is, in fact, consistent with these policies.

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While we agree with each core proposal that the Northpoint/HarvardNet letter makes, we urge the Commission to amplify on those proposals in certain ways in the order that adopts them. First, we urge the Commission to instruct each ILEC to add together all of its splitter costs (both those associated with the splitters embedded in switches that some ILECs use in connection with their own advanced services and the stand-alone splitters that will be used in connection with CLEC advanced services) and allocate to CLEC and ILEC advanced services the same percentage of the aggregated splitter costs. Without this clarification, we fear that some ILECs may seek to divide splitter costs into two categories -- switch-embedded splitter costs associated with the advanced services that ILECs provide and stand-alone splitter costs associated with the advanced services that CLECs provide -- and then recover the switch-embedded splitter costs entirely from customers of the ILEC's low bandwidth services and recover stand-alone splitter costs entirely from CLECs, who then would be forced unfairly to recover these costs entirely from their advanced service customers.

Further, we urge the Commission to adopt two policies that are designed to provide some modicum of assurance that the temporary line sharing prices that will go into effect 90 days after the Commission's order is released are *prima facie* consistent with the pricing policies that the Commission adopts in that order. First, the Commission should instruct each ILEC, within 14 days of the order's release, to file with the Common Carrier Bureau the ILEC's proposed price in each cost category along with an explanation of why the proposed price in each category is consistent with the FCC pricing policies applicable to that category. Moreover, the agency should instruct the Bureau to determine within 60 days of the order's release date whether the filed prices are, in fact, *prima facie* consistent with the Commission's pricing policies. The Commission also should instruct the Bureau to initiate monetary forfeiture proceedings against any ILEC whose proposed prices the Bureau concludes were *not* made in a good faith effort to comply with the agency's pricing policies. Unless the Commission oversees the initial implementation of line sharing, we fear that some ILECs may put in place line sharing prices that they have substantial reason to believe are not consistent with the Commission's pricing policies. If that were to occur, line sharing might not start by the deadline set by the Commission since the cost of doing so could be uneconomic.

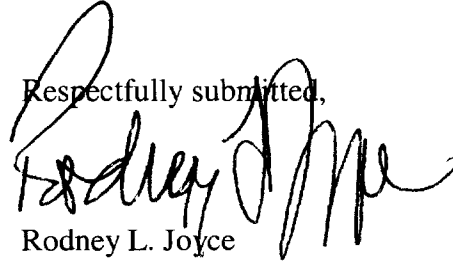
Finally, we urge the Commission to make clear that state PUCs are free to set the permanent price for line sharing UNE through whatever procedure is permitted under state law. Many state PUCs have chosen to establish the price of other UNEs through rulemaking-type proceedings or tariff proceedings. They should be free to set the price of the line sharing UNE through these same processes. If the Northpoint/HarvardNet proposal were adopted without this clarification, we fear that some ILECs might claim that the Commission had preempted the ability of PUCs to

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establish the price of the line sharing UNE through any procedure other than review of an amendment to an interconnection agreement.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Rodney L. Joyce". The signature is fluid and cursive, with the first name "Rodney" being more prominent than the last name "Joyce".

Rodney L. Joyce
Counsel for Network Access
Solutions Corp.

cc: Carol Matthey
Jane Jackson
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